UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

Salvatore Chimenti,

Petitioner,

Docket Number 98-cv-6151

v. :

John M. Gallagher United States District Judge

Kenneth Eason, Superintendent, SCI: Chester, *et al.*,

:

Respondents.

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PETITIONER'S MOTION FOR SUMMARY RELIEF OR ALTERNATIVELY, A HEARING ON THE MERITS

Pending before the Court is Petitioner Salvatore Chimenti's *Motion for Relief* from a Final Judgment Pursuant to F.R.Civ.P. 60(b) and Consolidated Brief in Support (ECF #56), filed on October 29, 2021. As noted in the Motion, it was expected that Respondents, represented by the Conviction Integrity Unit (CIU) of the Office of the Philadelphia District Attorney, would not oppose the Motion.

Respondents have filed their *Response* (ECF #66) and a two-hundred page *Appendix* (ECF #66.1). In its *Response*, the Commonwealth agrees that relief under Rule 60b is appropriate. *See Response*, 19 ("Commonwealth does not oppose Chimenti's Rule 60(b) Motion and agrees that relief is warranted in the form of a new trial."). In the context of the pending *Motion*, this concession permits the Court to summarily grant it, along with the Writ of Habeas Corpus.

Petitioner is over 70 years old. His health is in steady decline and he resides in the infirmary at Chester. These factors of course do not entitle him to the relief he requests. However, his age and ill health, along with Respondents' acknowledgment that an injustice has occurred that added decades to Mr. Chimenti's imprisonment, weigh in favor of a speedy resolution of the *Motion*.

In view of Respondent's concession of relief, the Court can grant the Rule 60(b) motion without further proceedings. However, should the Court wish to hear argument or receive evidence, counsel again requests that the Court schedule such proceedings at the earliest opportunity.

Respectfully Submitted,

/s/ Michael Wiseman

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Certificate of Service

I, Michael Wiseman, hereby certify that on this 4th day of April, 2022 I served a copy of the foregoing upon the following persons by filing the same with this Court's ECF Filing System:

ADA Thomas Gaeta ADA Michael Garmisa, Supervisor, Conviction Integrity Unit Office of the Philadelphia District Attorney

/s/ Michael Wiseman

Michael Wiseman